

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Darryl L. Cook,)
Plaintiff,) Civil Action No. 0:14-2660-RMG
v.)
United States of America,)
Defendant.)
)

This matter is before the Court on the Report and Recommendation (“R&R”) of the Magistrate Judge (Dkt. No. 37) recommending that this Court grant in part and deny in part the Defendant’s Motion to Dismiss (Dkt. No. 28) and deny Plaintiff’s Motion for Summary Judgment (Dkt. No. 33). The Court hereby adopts the R&R.

Plaintiff filed suit pursuant to the Federal Tort Claims Act, 28 U.S.C. §§ 2671-80 alleging that Defendants, by continuing to attempt collection against him and potentially against his mother, have damaged his credit and delayed medical attention (Dkt. No. 1).

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility for making a final determination remains with this Court. *Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). The Court makes a *de novo* determination of those portions of the R&R to which specific objection is made and may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). In this case the Magistrate Judge carefully and thoroughly addressed each of the Petitioner’s grounds and found that Defendants were incorrect in arguing that this Complaint reiterates claims already made in separate litigation, insofar as Plaintiff raises issues not directly related to his medical treatment but rather to the negative impacts of

Defendants' billing and damage to Plaintiff's credit. (Dkt. No. 4-6). Defendants did not object to the R&R and the Court agrees with and adopts its conclusions. The Motion to Dismiss (Dkt. No. 28) is therefore denied in part and granted in part.

Plaintiff filed objections to the R&R on April 6, 2015 and April 13, 2015. (Dkt. Nos. 39 and 40). However, the objections reargue the same points asserted by Plaintiff in the Complaint. Summary judgment is appropriate only if the moving party "shows that there is no genuine dispute as to any material fact and the [moving party] is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a). The Court agrees with the R&R that Plaintiff has not shown that there is no genuine dispute as to any material fact in this case. His Motion for Summary Judgment (Dkt. No. 33) is therefore denied.

AND IT IS SO ORDERED.



Richard Mark Gergel
United States District Court Judge

April 21, 2015
Charleston, South Carolina